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**FISCAL IMPACT STATEMENT**

**LS 6073**

**BILL NUMBER: SB 12**

**NOTE PREPARED: Feb 13, 2006**

**BILL AMENDED: Jan 19, 2006**

**SUBJECT: DOC Administration of Sex Offender Registry.**

**FIRST AUTHOR: Sen. Long**

**FIRST SPONSOR: Rep. Foley**

**BILL STATUS: CR Adopted - 2<sup>nd</sup> House**

**FUNDS AFFECTED: X GENERAL  
DEDICATED  
FEDERAL**

**IMPACT: State & Local**

**Summary of Legislation:** This bill has the following provisions:

- A. It transfers oversight of the Sex Offender Registry from the Criminal Justice Institute (ICJI) to the Department of Correction (DOC). It eliminates the Sex and Violent Offender Directory, transfers its functions to the Sex Offender Registry, and requires the Criminal Justice Institute to seek grants to support the Sex Offender Registry.
- B. It removes a provision requiring a sex offender to register using a "registration form", and requires the DOC to establish a format for registration. It requires the DOC to transmit information concerning sex offenders to a neighborhood association, or to provide instructional material in the use of the Sex Offender Registry. It requires the DOC to inform and train judges, prosecuting attorneys, law enforcement officials, and others in the sex offender registration procedure. It requires that the Sex Offender Registry be updated daily and be available on the Internet,
- C. It requires incarcerated sex offenders to register before being released, and shortens certain registration periods. It establishes a procedure for determining which out-of-state sex offenders residing in Indiana are required to register and how long they are required to register.
- D. It permits the DOC to reduce good time credit for a sex offender who does not participate in a sex offender treatment program or who does not register before being released from incarceration.
- E. It specifies that a sex offender's principal residence is the residence where the offender spends the most time. It imposes additional registration and notification requirements on sex offenders, including a requirement that a sexually violent predator notify law enforcement officials if the predator will be absent from the predator's principal residence for more than 72 hours.
- F. It requires a sexually violent predator to initially register not more than 72 hours after release from incarceration or supervision, and requires all sex offenders to register in person at least once per year.

- G. It requires a sex offender to possess a valid driver's license or state identification card. It requires a sex offender who temporarily resides in transitional housing to register once every seven days, and requires a local law enforcement authority to personally visit the listed address of a sex offender.
- H. It provides various penalties for violations of these provisions. It makes conforming amendments. It repeals certain provisions concerning the Criminal Justice Institute's duties with respect to sex offenders.

**Effective Date:** Upon passage; July 1, 2006.

**Explanation of State Expenditures:** *Reorganization of Sex Offender Registration:* The following table summarizes the responsibilities under current law and as proposed for the ICJI, the DOC, the Indiana Sheriffs' Association, and local law enforcement agencies (LLEAs) pertaining to the Sex and Violent Offender Directory (Directory) and the Sex Offender Registry (Registry).

<b>Proposed Changes in Organization of Sex Offender Data Base in Indiana</b>		
<b>Entity</b>	<b>Under Current Law</b>	<b>As Proposed</b>
<b>Indiana Criminal Justice Institute</b>	Establish and maintain Directory; provide training concerning sex offender registration and using the Directory; publish Directory on the Internet; make Directory available to certain entities on computer disk; maintain hyperlink on the ICJI's website to the Registry web site; make paper copies of the Directory available upon request; and approve or prescribe registration forms.	Identify funds to be used by DOC for the Registry.
<b>IN Sheriffs' Association</b>	Establish and maintain the Registry web site.	No responsibilities.
<b>Department of Correction</b>	No responsibilities.	Maintain Registry; prescribe and approve a format for sex offender registration; provide information and training concerning the requirements of sex offender registration and use of the Registry; provide information to neighborhood associations; conduct hearings for sex offenders from out-of-state jurisdictions.
<b>Local Law Enforcement Agencies</b>	Responsible for: registering sex offenders; forwarding registration documents; taking and publishing sex offender photographs; notifying other LLEAs and out-of-state jurisdictions of changes in sex offender residences, employment, vocation, or enrollment; verifying offender addresses; and notifying the ICJI and the prosecuting attorney if an offender fails to return a signed registration form.	Personally visit each sex offender in the county at the sex offender's listed address at least one time per year, beginning 7 days after the LLEA receives a notice that a sex offender is being released from a facility. Visit a sexually violent predator at least once every 90 days beginning 7 days after the LLEA receives notice that the predator has been released from a facility.

*Registration and Classification of Out-of-State Offenders:* Currently, the state enters into interstate compacts for both probation and parole which allow for supervision by DOC for paroled offenders. The Indiana Judicial Center informs the local law enforcement agencies and the probation departments when sex offenders on probation enter Indiana from another state. The DOC reports that 36 out-of-state sex offenders are on parole. In addition, the DOC reports that fewer than 10 sex offenders per year enter Indiana through a parole interstate compact. The number of sex offenders who are on probation from another state and enter Indiana through the interstate compact is currently not known.

DOC indicates that no standardized legal procedures exist for determining if persons who have been sentenced as sex offenders in other states, have been released from a correctional facility, and are no longer on probation or parole are required to register in Indiana. Consequently, it is not clear under current law whether local law enforcement agencies have the legal authority to monitor them. This bill will allow a state agency to determine following a hearing: (1) whether a person convicted of an offense in another jurisdiction is required to register as a sex offender in Indiana; (2) whether an out-of-state sex offender is a sexually violent predator; and (3) the period in which an out-of-state sex offender who has moved to Indiana will be required to register as a sex offender in Indiana. The number of sex offenders who enter Indiana from another state and who are not on parole or probation is not known.

This provision of the bill could increase the administrative duties of the state agency responsible for these hearings if more out-of-state sex offenders reside, work, or attend school in Indiana. The responsible agency is not specified in the bill.

*Responsibilities of Sex Offenders to Register:* This bill reduces the amount of time that sex offenders would have to register in the circumstances shown in the following table.

<b>Proposed Changes in Deadlines for Registering as Sex Offender and Other Responsibilities</b>		
	<u>Current Law</u>	<u>Proposed</u>
After release from secure private facility or juvenile detention facility	14 days	7 days
After changing name due to marriage	30 days	7 days
After release from a DOC facility	14 days after release	While in prison, offenders could lose credit time for not registering
Changing home address, place of employment, vocation, or school	7 days	72 hours
Report in person to the LLEA, register and be photographed	not required	at least yearly
Retain valid driver's license or other state-issued identification if nonresident	not required	Class A misdemeanor or Class D felony
Register if temporarily residing in transitional housing	not required	once every 7 days
Sexually violent predators temporarily away from principle residence inform LLEAs about where the offender will be	not required	Class A misdemeanor or Class D felony if not complying

Persons intentionally failing to register as a sex offender within the current time frame commit a Class D felony on a first occasion, and not complying on additional occasions is a Class C felony. In addition, sex offenders who make a material misstatement or omission while registering as a sex offender also would commit a Class D felony. Reducing the amount of time that a sex offender has to register in the cases above could increase the number of offenders who might be convicted of committing either felony or could increase the number of offenders who are sentenced to probation, depending on the discretion of the court and whether this recent crime occurred within the last three years of the offender's release from the DOC facility. Prison time for these two offenses is shown below:

<b>Prison Sentences for Failure to Register as a Sex Offender</b>				
<b>Offense</b>	<b>Felony Class</b>	<b>Minimum</b>	<b>Presumptive</b>	<b>Maximum</b>
First Failure	D	6 months	1.5 years	3 years
Second Failure	C	2 years	4 years	8 years

In CY 2004, 23 persons in 13 counties were committed to DOC facilities as Class D felons for not registering as a sex offender as a first-time offense.

*Changes in Credit Time* -- This bill would allow DOC to deny credit time to sex offenders if they refuse to:

- register as a sex offender while in a DOC facility (used as a management tool); or

- to participate in sex offender treatment program specifically offered to the sex offender by DOC.

DOC indicated that loss of credit time would be used as a management tool to force offenders to comply. Offenders who may lose credit time for good behavior may regain the lost credit time. Consequently, these provisions would not likely increase future facility populations. DOC also offers sex offender treatment to the offenders that staff determine would benefit from the program. Consequently, the number of sex offenders participating in the program is limited. Sex offender treatment programs are located at the following male facilities: Miami, Correctional Industrial Complex, Putnamville, and Westville. Liberty Behavioral Health (LBH) is contracted to provide those services. By contract agreement LBH is to provide services for not less than 200 offenders at any given time. Currently, 220 sex offenders are enrolled in the treatment program.

*Background on Number of Adult and Juvenile Sex Offenders Released Each Year* – Offenders who were committed to DOC for the offenses shown in the following table are generally required to register as sex offenders once they are released. Depending on their offense and criminal history, they may be required to register for either a ten-year period or for lifetime.

<b>Adult Sex Offenders Released by Calendar Year.</b>					
<b>Offense</b>	<b>2000</b>	<b>2001</b>	<b>2002</b>	<b>2003</b>	<b>2004</b>
Att. Commit Felony	21	28	29	40	38
Child Exploitation	2	9	7	13	9
Child Molesting	399	468	468	536	485
Child Seduction	1	2	2	3	4
Child Solicitation	6	4	13	10	14
Criminal Confinement (Class C Felony)	11	8	7	11	9
Criminal Deviate Conduct	26	30	35	56	31
Incest	8	10	14	14	16
Kidnaping	8	11	13	6	8
Rape	88	111	88	121	102
Sex Misconduct-minor	122	146	189	220	218
Sexual Battery	69	59	56	58	52
Vicarious Sex Gratification	5	2	3	4	7
<b>Grand Count</b>	<b><u>766</u></b>	<b><u>888</u></b>	<b><u>924</u></b>	<b><u>1092</u></b>	<b><u>993</u></b>

Under current law juvenile offenders who were committed to DOC juvenile facilities for a sex-related crime are required to register as sex offenders as well. The following table shows the juveniles released in 2004 from DOC facilities who were committed for a sex-related offense as a juvenile.

<b>Juveniles Placed in DOC Juvenile Facility For Sex Offenses Released in 2004</b>	
<u>Offense</u>	<u>Juveniles Released</u>
Child Exploitation	1
Child Molesting	90
Criminal Confinement	2
Criminal Deviate Conduct	4
Rape	3
Sexual Battery	9
Sexual Battery/force	<u>1</u>
Grand Count	<u>110</u>

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** *Local Law Enforcement Agencies:* Local law enforcement agencies would be required to personally visit each sex offender in the county at the sex offender's listed address at least one time per year, beginning seven days after the local law enforcement authority receives a notice that a sex offender is being released from a penal facility, a secure private facility, or a juvenile detention facility. The LLEA would also be required to visit a sexually violent predator at least once every 90 days beginning seven days after the LLEA receives notice that the predator has been released from a facility.

Currently, each LLEA (defined as a sheriff or police chief of a consolidated city) has identified staff to monitor sex offender registration. Those staff are responsible for forwarding a copy of a sex offender's registration form to the ICJI, the DOC (if the DOC has established an Automated Victim Notification System), and every LLEA having jurisdiction in the area where the offender is located; taking and publishing photographs of offenders on the Sheriffs' Sex Offender Registry web site; informing other LLEAs if an offender moves, starts employment, vocation, or enrollment within the other LLEAs jurisdiction; notifying other states if an offender changes their residence, place of employment, or enrollment to the other state; verifying offenders' addresses; and notifying the ICJI and the prosecuting attorney if an offender fails to return a signed registration form.

**Explanation of Local Revenues:**

**State Agencies Affected:** DOC; ICJI.

**Local Agencies Affected:** Sheriffs; Local Law Enforcement Agencies.

**Information Sources:** Department of Correction.

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